

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

<http://www.dgs.ca.gov/opsc>



**July 9, 2003**  
**IMPLEMENTATION COMMITTEE**  
**MINUTES**  
East End Complex  
1500 Capital Avenue  
Room(s) 72.148C & 72.149B  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
Lori Morgan, OPSC  
Kent VanGelder, CDE  
Dave Doomey, CASH  
Gary Gibbs, CBIA  
John Palmer, CASBO  
Beth Hamby, LAUSD  
Jay Hansen, SBCTC (Morning Only)  
Bill Cornelison, ACS  
Dennis Dunston, CEFPI  
Constantine Baranoff, SSD  
Lenin Del Castillo, DOF  
Dave Walrath, SSDA (Temporary Alternate for SSDA)  
Panama Bartholomy, DSA

**Members Absent**

Brian Wiese, AIA

The meeting on July 9, 2003 was called to order at 10:02 a.m.; there were 14 members present and 1 absent. The minutes from the June 6, 2003 meeting were accepted with a minor correction to remove duplication from the member attendance roster.

The Chair welcomed both Ken VanGelder and Panama Bartholomy as the new representatives for CDE and DGS, respectively. He also announced that Debra Pearson from Wheatland Elementary School District would be joining the Committee as the new SSDA representative.

**SAB/OPSC PROCESSES FOR LEASE LEASE BACK (LLB) PROJECTS /180-DAY REIMBURSEMENT ISSUE**

This item is continued from the May and June 2003 Committee meetings with the inclusion of the 180-day Reimbursement Policy under the School Facility Program. Further discussion on lease lease-back project delivery methods were made to develop a formal policy regarding the provisions of Education Code 17406 in conjunction with the 180-day Reimbursement Issue.

The Committee's goal was to:

- Not prohibit school districts from utilizing the LLB method of project delivery when all provisions of the governing law are met.
- Identify and evaluate bond funding and its constraints.
- Determine Program issues regarding baseline capacity.

Key points of the discussion are summarized below:

- Concerns were raised regarding when a LLB project would be charged under the School Facility Program. The current proposal states that "A district may receive SFP funds for facilities that have been constructed or modernized, or will be constructed or modernized, under the agreement, pursuant to 17406 provided that various requirements are met." In particular, Sections (c) and (d) of the Proposal (refer to Attachment A) were discussed and the Committee agreed that the requirements specified in these two areas should be combined.

**SAB/OPSC PROCESSES FOR LEASE LEASE BACK (LLB) PROJECTS /180-DAY REIMBURSEMENT ISSUE** (cont.)

- A recommendation was also made to include the Labor Compliance Program (LCP) requirement in the amended regulations.
- The issue of funding and the 180-day timelines remains unresolved and will require further discussion. The 180-day issue, will however, not be combined with LLB, but will be dealt with separately. With respect to the 180-day timeline issue, various participants voiced:
  1. Difficulty in meeting the 180-day timeline with LLB, especially in instances phased construction or design built projects.
  2. That a further review of the penalties associated for projects built with local funds that have missed the 180-day reimbursement timelines, which impacts the districts with chargeability and loss of funding issues.
  3. Because the 180-day timeline starts from the day the construction contract was executed by the district, the question arises as to whether the Agreement could be accepted as a contract for construction.
- Issues were also raised regarding the district's ability to have title to the site on which the project would be constructed at the time the apportionment was made in conjunction with the 180-day timeline and its ability to obtain funding. A suggestion was made to include a "purchase option".
- Termination of LLB Agreement within a reasonable time prior to apportionment was also discussed.
- It was shared that the main reason for the securing LLB Agreements was gain more control over the selection of the contractor for their projects and to benefit from a guaranteed maximum price. This approach also enhances the possibility of securing contractors with excellent performance records.
  1. Participants pointed out numerous situations where districts selected the lowest responsive bidder and were stuck with contractors that mismanaged the project, drove up the construction costs with countless change orders, etc.
  2. The SBCTC representative offered his assistance in meeting with Committee representatives to address problems associated with the competitive bidding process and poor performing contractors for possible legislation remedies to adjust the Public Contract Code.
- Another LLB consideration is the fact that, the term "Lease Lease Back" means different things to different lawyers.

Further discussion on the topic will be deferred until the next meeting. In the interim, OPSC will continue to draft changes to the proposed regulations as addressed above and prepare a separate item to address the 180-day timeline issue.

**COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS**

This item continued from the May 2003 and June 2003 Committee meetings. Lindsay Ross and Melissa Ley of the OPSC presented a revised a new school allowance proposal based upon the Minimum Essential Facility (MEF) square footage recommendations as previously presented (and generally accepted). Examples were presented to illustrate the methodology used to develop the proposed alternative education new school allowance chart, to show how the new school grant would be calculated and to demonstrate how subsequent funding requests would be determined.

An amended draft of the Use of Grant regulation (Section 1859.77.3) was presented, which provides a mechanism for school districts to obtain funding for the support facilities that may be needed at existing alternative education schools. In addition, the OPSC briefly discussed the eligibility adjustment options being considered as necessitated by the loading standard change.

The comments received appear to be in support of the revised proposal. However, some concerns and suggestions were expressed.

- Restructure the offset so district may request the new school allowance in a future application.

## **COMMUNITY DAY/CONTINUATION HIGH CLASSROOM LOADING AND FUNDING METHODS** (cont.)

- The “grandfathering” date may disadvantage districts that are nearly complete with the planning of their facility and have planned with the current new school grant in mind.

The discussion of this issue will continue at the August 2003 Implementation Committee meeting, with anticipation of presenting the proposal at the August 2003 SAB meeting.

### **SENATE BILL 575 SURVEY – Automatic Fire Detection/Alarm and Automatic Sprinkler Requirement**

Carol Shellenberger and Lori Morgan of OPSC presented the item. A survey was conducted to review the adequacy of these grants. A detailed cost breakdown of costs representative of these costs was presented to the Committee. The survey results show that some costs were under-funded and others were over-funded. Staff presented proposed changes to the grant amounts. Staff will also examine the allowances to ensure that the revised allowances also include applicable soft costs and costs borne by older school facilities (in particular buildings 30 years or older) to cover installation of these systems. Staff will share its findings at the next Implementation Committee for finalization.

The discussion of this issue will continue at the August 2003 Implementation Committee meeting, with anticipation of presenting the proposal at the August 2003 SAB meeting.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at approximately 3:00 pm. The next Implementation Committee meeting is scheduled for Friday, August 1, 2003 at 9:30 a.m. and will held at 1500 Capitol Avenue, Rooms 72.151A and 72.149B (First Floor) in Sacramento. Please verify the meeting location.